

COUNCIL ON ENVIRONMENTAL QUALITY
Minutes

A regular meeting of the Council on Environmental Quality was held in the Conference Room of the Suffolk County Planning Department, 4th Floor, H. Lee Dennison Building, Veterans Memorial Highway, Hauppauge, New York, on June 18, 2003.

Members Present:

Theresa Elkowitz - Chairperson
Larry Swanson - Vice-Chair
Michael Kaufman
Thomas Cramer
Legislator Ginny Fields
Adrienne Esposito
Nancy Manfredonia
Lance Mallamo

Members Not Present:

John Finkenberg

Also in Attendance:

James Bagg - Chief Environmental Analyst/SC Planning Department
Lauretta Fischer - Suffolk County Planning Department
Penny Kohler - Suffolk County Planning Department
Peggy DeKams - Suffolk County Planning Department
Nicole DeAngelo - Intergovernmental Relations/County Exec's Office
Nanette Essel - Aide to Presiding Officer Postal
Nick Gibbons - Suffolk County Parks Department
Steve Jones - Executive Director/Suffolk County Water Authority
Steve Colabufo - Suffolk County Water Authority
Joy Squires - CAC of Huntington
Richard Martin - Historic Services

Minutes Taken By:

Alison Mahoney - Court Stenographer

(*The meeting was called to order at 9:40 A.M.*)

CHAIRPERSON ELKOWITZ:

I'm calling the meeting to order and let's have mercy on the stenographer.

MS. MAHONEY:

You know me, I'll start shouting.

CHAIRPERSON ELKOWITZ:

That's okay, we're happy to hear you. We have minutes. I don't know -- they were in the packet, so do we want to defer review of the minutes until the next meeting or do we want to do it now? So we'll defer the review of the minutes until the next meeting.

1, Type II Actions, a) Ratification of Staff Recommendations.

Mr. Bagg, do you have anything to tell us?

MR. BAGG:

Well, basically there's nothing in the packet really that should be noted with respect to SEQRA. However, there is something in here that I pulled out, I believe it's a Type II Action but it's by Legislator Fisher, Implementing the leadership and Energy and Environment Design Program to keep the County structure. So there's a whole thing in here in terms of energy design for buildings and everything that she wants a protocol followed and stuff like that. It's kind of interesting, so I'm just going to kind of pass around or if somebody would like a copy, feel free.

MR. KAUFMAN:

Jim, does that dovetail at all with the County's energy policy?

MR. BAGG:

No, in essence, it's an extension of the County Energy Policy. The County Energy Policy says we will, you know, utilize energy efficiency, you know, technology and measures wherever feasible and this kind of like goes one step further and defines exactly how we're supposed to evaluate that.

CHAIRPERSON ELKOWITZ:

So would it modify the County policy?

MR. BAGG:

Not really because they have to follow certain steps and you would get all those things when you review the individual project anyway.

MR. KAUFMAN:

Terry, I think it might be a situation where it's an administrative -- even though it's coming out of the Legislature, it's an administrative rendering, if you will, of the policy in more build-out detail.

CHAIRPERSON ELKOWITZ:

So then it would have to go to the departments to follow, is that the gist of it?

MR. BAGG:
Uh-huh.

CHAIRPERSON ELKOWITZ:
Okay. All right.

MR. BAGG:
It directs the Department of Public Works to follow that protocol.

CHAIRPERSON ELKOWITZ:
Okay. Anybody have any questions or comments for Jim? If not, I'll entertain a motion.

MR. MALLAMO:
Can I just ask, what is 1519, installation, presentation of stone and placade.

CHAIRPERSON ELKOWITZ:
Oh, isn't that the 911?

MR. KAUFMAN:
No, I think that's the other one, the airplane crash.

CHAIRPERSON ELKOWITZ:
That's the one for the crash?

MR. MALLAMO:
At Southaven?

MR. KAUFMAN:
No, that's Smith Point; withdrawn.

CHAIRPERSON ELKOWITZ:
I thought Southaven was a 9/11, but I could be wrong.

LEG. FIELDS:
It is, it's a 9/11, Daffodils and Stone.

MR. MALLAMO:
I thought the 9/11 was going the new frontier.

LEG. FIELDS:
There probably is another one, but there is definitely one at Southaven.

CHAIRPERSON ELKOWITZ:
I thought that's what I read.

MR. MALLAMO:
Okay.

CHAIRPERSON ELKOWITZ:
Okay?

MR. KAUFMAN:
I'll make a motion to accept.

CHAIRPERSON ELKOWITZ:

I have a motion to accept staff recommendations. Do I have a second?

MR. SWANSON:

Second.

CHAIRPERSON ELKOWITZ:

I have a second by Larry. All those in favor? Opposed? Abstentions?

Carried (VOTE: 8-0-0-1 Not Present: John Finkenberg).

Okay, 2, Proposed Development of Suffolk County Water Authority well field at Dwarf Pine Plains county Park, Town of Southampton. I had --

I've done a little research on this since I got my packet and I also talked to Mr. Jones in the elevator.

MR. KAUFMAN:

Strange places you have meetings, Terry.

CHAIRPERSON ELKOWITZ:

Yeah. Well, we just happened to be talking to each other. This I pulled out because I was concerned about something, the Central Pine Barrens map of which I have an excerpt. And the property is in the core preservation area, okay. So if the property is in the core preservation area, there's a policy of no development in the core, but the act allows for certain things to be classified as nondevelopment, but the only entity that could classify something as nondevelopment is the Pine Barrens Commission.

So the Water Authority is here because it needs Legislative approval for something and the Water Authority is here because they're seeking -- it's seeking a SEQRA recommendation, but I submit to you that it's my opinion we can't give them one. The reason why that's my opinion is in the plan, in the final Central Pine Barrens Plan there is a provision about lead agency assertion, and I'll read it to you. "The commission shall seek lead agency status for development proposed in the core preservation area pursuant to the State Environmental Quality Review Act."

(*Tom Cramer entered the meeting at 9:44 A.M.*)

So it's my opinion that without a determination from the commission that this is not development and a recommendation that the commission doesn't care if we act as lead agency, we shouldn't be doing anything.

And it's also my opinion that given that this proposal provides for clearing in the core, it comes into one of those gray areas in the law regarding nondevelopment. And it shouldn't be for us to discuss, it should be at the commission level, it shouldn't be here.

MR. KAUFMAN:

I agree with you, Terry, in terms of we should have a determination as to who the lead agency is. But is there a separate action, though, that the County of Suffolk, exclusive of the Pine Barrens, is there a separate action --

CHAIRPERSON ELKOWITZ:

Well, there has to be Legislative approval. However, the commission --

MR. KAUFMAN:

It's a two step --

CHAIRPERSON ELKOWITZ:

The commission should be undertaking, pursuant to SEQRA, coordinated review which means it's supposed to identify all involved agencies which will include the Suffolk County Legislature, advise the Suffolk County Legislature that it is seeking lead agency status and then make a determination of significance. The law, meaning the State Environmental Quality Review Act and it's regulation, is extraordinarily clear, and I probably have my regs someplace, I could read it to you, but I'll paraphrase; you can take my word for it or not.

MR. KAUFMAN:

I know what you're talking about.

CHAIRPERSON ELKOWITZ:

But if an entity has undertaken a coordinated review and has exercised due diligence in identifying all other involved agencies, has advised those involved agencies, coordinated with them, no other agency may cause the Water Authority in this case to undertake environmental review again for this project, period. And there was also a case law that came down on that about two weeks ago.

MR. KAUFMAN:

Yes, two weeks ago in Southampton.

CHAIRPERSON ELKOWITZ:

Right. So it's my opinion, subject to somebody telling me that I'm wrong or subject to Mr. Jones who had a conversation with Mr. Mallazo I think.

MR. JONES:

Yes.

CHAIRPERSON ELKOWITZ:

But we may have a disagreement, but go ahead.

MR. JONES:

I disagree completely but you're the Chair.

CHAIRPERSON ELKOWITZ:

Go ahead.

MR. JONES:

The Pine Barrens Act of 1993 and the Pine Barrens -- I'm sorry, the Pine Barrens Law in 1993, the Pine Barrens Act that was adopted by all the entities in 1995 and all of the subsequent actions that the Pine Barrens Commission has taken would indicate clearly that the Suffolk County Water Authority, any action that the Water Authority takes in the core preservation area is nondevelopment. That being said, we

don't believe that there's any interpretation there because what Terry just read was with respect to development in the core area, this is not development period, it's just not even open to interpretation; the law says that utilities, public utilities action is considered non development.

Obviously if CEQ wants to put it off, it's your right to put it off and we'll get a necessary letter for you. I just think it's not necessary but if that's the consensus of the group here that you want to see it in writing for this specific activity, we will make that available to you.

We're on property that the County bought for drinking water purposes, that part of it is not open to interpretation either, it's -- we're allowed to develop well sites on these properties in accordance with what the Legislature requires. So there is an aspect of it where the Legislature considers it development even though the Pine Barrens Act does not consider it to be development. So we know that, we have a plan, we've gone over it with the Parks Department, we're clearing that -- yes, we are doing -- have to do some clearing obviously for the buildings. We have done all of the necessary requirements in terms of having a consultant look over the plans, developing the plans and we're prepared today to show you those plans and I hope you will consider that so that perhaps if you want you can take all the information in and approve it subject to a confirmation from the Pine Barrens Commission so that it can move ahead, but I'll leave that up to you. But we don't consider it to -- it's considered non development according to the act of the plan, we would like to move ahead with the project.

CHAIRPERSON ELKOWITZ:

I'd be happy -- I brought the law for this very purpose and I will read to you the sections of the law that Mr. Jones is talking about. "The following operations or uses do not constitute development for the purposes of this article. One, public improvements undertaken for the health, safety or welfare of the public. Such public improvements shall be consistent with the goals and objectives of this article," meaning the Pine Barrens Law from 1993, "and shall include but not be limited to maintenance of an existing road or railroad track. Two, work by any utility not involving substantial engineering redesign for the purpose of inspection, maintenance or renewal on established utility rights-of-way or the likes and any work pertaining to water supply for the residents of Suffolk County, work for the maintenance renewal, replacement, reconstruction" -- this one relates to residences.

MR. JONES:

Excuse me. Could you read that last part again?

CHAIRPERSON ELKOWITZ:

Yep. "Work by any utility not involving substantial engineering redesign for the purpose of inspection, maintenance or renewal on established utility rights-of-way or the likes and any way work pertaining to water supply for the residents of Suffolk County."

MR. JONES:
And any work related, okay.

CHAIRPERSON ELKOWITZ:
Right. Then there's a couple that relate to residences which I don't think it's worth reading, one relating to agriculture. "Work by any utility performed for the purpose of public health, safety or welfare and consistent with the goals and objectives of this article." Then there's one about recreation, changes in land use within the same zoning district category, residential development and it goes into the compatible growth area.

MR. KAUFMAN:
This may well be a situation where the health, safety and welfare of the community would --

CHAIRPERSON ELKOWITZ:
I just feel uncomfortable, I personally feel uncomfortable talking about a project that requires clearing in the core without having the commission say it looked at it first and without having the comments of the commission. And, you know, I am very respectful of Mr. Jones and of the Water Authority, but I don't know that it's helpful if the commission has a different opinion from us to make some sort of recommendation without having the recommendations of the entity with the greatest discretion over the action.

LEG. FIELDS:
Would it hurt to listen to what he has to say today, review it and ask for an opinion of the County Attorney and for a letter from the commission?

CHAIRPERSON ELKOWITZ:
I don't have any problem doing that at all.

LEG. FIELDS:
And then, you know, if we decide at that point then the letter comes in or the recommendation comes in from the attorney as to the interpretation of the law, then it's done.

CHAIRPERSON ELKOWITZ:
It's actually going to be easier for him to just get it from the commission, but yeah, we'll probably get it quicker from the commission than we would get it from the County Attorney.

MR. KAUFMAN:
Basically a letter of jurisdiction or non jurisdiction.

CHAIRPERSON ELKOWITZ:
Or just say it's nondevelopment, you know, real simple; we looked at it, it's nondevelopment pursuant to whatever it is.

MR. MALLAMO:
It sounds to me like you both might be right.

CHAIRPERSON ELKOWITZ:
Well, that's the problem.

MS. ESPOSITO:
Thank you, Lance.

CHAIRPERSON ELKOWITZ:
But that's the problem.

MR. MALLAMO:
And I don't think this is the last time we're going to hear this issue, so I think it would be helpful to get a written opinion. But I think to expedite this, if we could hear it today --

CHAIRPERSON ELKOWITZ:
Yeah, we can hear it.

MS. ESPOSITO:
It's certainly on our agenda, we should hear it today.

MR. KAUFMAN:
I just came for the donuts.

LEG. FIELDS:
Since we all reviewed it anyway, otherwise we'll forget everything we've reviewed and we'll have to review it a second time. Why don't we have him do it today.

MR. KAUFMAN:
Yeah. Madam Chair?

CHAIRPERSON ELKOWITZ:
Sure, absolutely.

MR. JONES:
Does everybody have a copy of your site plan in your packet?

CHAIRPERSON ELKOWITZ:
It all got mailed to us, we all got it.

MR. JONES:
So I don't need the -- the property is on the north side of the railroad tracks across from Westhampton Railroad Station. It's west of County Route 31 which runs past Gabreski Airport from Sunrise Highway down to Westhampton Beach. We had originally when we came I believe to CEQ maybe a year ago or so and also to the Parks Trustees, or maybe it was just the Parks Trustees, the site was going to be immediately abutting to the rest of some existing commercial development on the west side of CR 31. And in conjunction with field inspections by the Parks Department, we decided to move into the property even westward a little bit more to where there's already existing clear area, and you will see that on your site plan, there's a portion that's already cleared and then another portion which we would clear. So anyway, upgradient is all the land that runs up to Sunrise Highway which is essentially Dwarf Pine Plains.

I would also respectfully suggest that this particular property is not considered Dwarf Pine Plains. If you take a look at the environmental reviews that were done by this Planning Department here as part of the

Pine Barrens Plan in 1995, the Dwarf Pine Plains actually runs down a little bit south of what's called Stewart Avenue which is where Coast Guard housing is, it does not run all the way down the Pine Barrens -- I'm sorry, the Dwarf Pine Plains vegetation does not run all the way down to the railroad tracks.

Anyway, we do want to put this well field in there. We're over now on Meeting House Road and we want to have a replacement well field. Meeting House Road is being endangered by pollutants from off of the south end of Gabreski Airport. Toward that well field which is over near Montauk Creek, so we want to move over here where the upgradient area is completely preserved and have a well site on into the future. So you see the well site, we have designed it for a number of different things, it's 2.7 acres. We have some areas that are hardlined which are for wells, blow off pit and for building and we also have sufficient area we can put in granular activated carbon units and blow off for that as well as some additional well sites.

The thing I want to hand around to you which I didn't have until Monday, until two days ago, what we did was we have -- and you'll see it in the EAF. We have a new clearing protocol that we started out in East Hampton, north of East Hampton Airport, we started a new well site out there last year. We did limited clearing and what we did, instead of going in like we used to do with a bulldozer and just pulling everything out, we took stock of the fact that there's only organic matter maybe a couple of inches down. And you have oak as the over story and then you have blueberry as the understory, that's basically what it is. So what we did out there was we cleared down with chain saws and brush hogs and other things to leave all the organic matter in tact and leave the plant roots and crowns in tact as well. So I'm passing around just a series of pictures from when we started to last Monday and you can see the sprouts of the oak trees and the blueberry coming back up, because what we want to --

MR. CRAMER:

She can't look at it.

MR. JONES:

What we want to do is instead of bulldozing the place out and then planting grass and that sort of thing, if we can clear this way then we can put our facilities in there and then everything would just grow back in. And the only places that won't have the growth are the actual hard surfaces which are the driveways to the well houses and our buildings themselves, everything else can come back, there's native plants that were there before we cleared. And it's working out very well out there in East Hampton.

MR. KAUFMAN:

You only have one -- is there an issue with fire protection in that the area did -- was subject to the fires back in '95/'96? If you allow basically vegetation, oaks, etcetera, to come back that close, are you going to lose your building if there is a fire, or do you have fire breaks planned or anything?

MR. JONES:

Well, for the kind of fire that occurred, no. We would probably lose

everything because there's just no way for me to put -- cross Sunrise Highway 200 feet, a 200 foot jump, it doesn't matter what our fire break is like. But we do have --

MR. KAUFMAN:
Just asking.

MR. JONES:
We do have water there, obviously, if any place to fight a fire, we certainly can. But no, we did not plan any extraordinary fire breaks there.

CHAIRPERSON ELKOWITZ:
Do you have fire hydrants outside?

MR. KAUFMAN:
Actually they do.

MR. JONES:
We'll have a few fire hydrants on the site, yes. So I just want to emphasize that in addition to this particular proposal, you'll see some other subsequent and I want you to look at those aerial -- I'm sorry, granule photographs there because it's working out very well out there in East Hampton where we can retain the native vegetation, just let it sprouting up on its own and it's great, it's working out very well. And it's only been a year since -- and we're still out there building but it's working out very well and that's the way we want to handle these clearing things.

You can see in the second photo there's a drilling rig out there, we do need to clear huge areas to move the pieces of pipe around and the drilling rig and then we can allow it to grow back in once we're all done. So that's essentially the project.

Just for your information, although it doesn't have anything to do with the environmental review, we have been discussing with the Parks Department the notion of having the Water Authority pay for an easement, we do have to pay for an easement, and that's going to be part of our resolution with the Legislature. And we're going to be requesting the Legislature to take our money and dedicate it to the Parks Department for watershed protection and security purposes. They have a fund that was supposed to be receiving and may be receiving Quarter Cent Funds over the years, I know there have been various discussions about that, there is a fund for that. We want to put all of our money that we have to pay to the County for an easement, we want to put it into that fund so that it stays, it inures to our benefit in terms of watershed protection and security and obviously would inure to the Parks Department as well and give them a little bit more financial resources to protect all this land that they have inherited over the last 10 or 15 years. So I will be happy to answer any questions if you have any.

MR. KAUFMAN:
One, you said definitely this is outside of the Dwarf Plains. Because about five years ago when you were at Planning Mike LoGrande came down

here and wanted to -- when he was running the Water Authority, wanted to do some --

LEG. FIELDS:
He still is.

MR. KAUFMAN:
Leaving aside the political aspects of it.

LEG. FIELDS:
No, he still is; he's still CEO.

MR. JONES:
No, he's the Chairman. The other proposals from the Water Authority were in the Dwarf Pine Plains, one was up by the building that we retained as the Eastern Regional Office, another one was even north of that, another one was on the north side of Sunrise Highway in the Dwarf Pine Plains near Hampton Hills and there was another proposal on the west side of CR 31, south of Sunrise Highway. So those other proposals were in the Dwarf Pine Plains, this one is out.

MR. KAUFMAN:
This is definitely outside of that line.

MR. JONES:
Yes, that was mapped -- that Dwarf Pine Plains area was mapped as part of the Ecological -- what was it called, the Ecology Committee. The Nature Conservancy did the work to indicate what the outer extent of this Dwarf Pine Plains area was and did not go down to the railroad tracks. Any other questions?

MR. KAUFMAN:
This is maybe not a question but this is a piece of commentary for the commission. I find it very interesting that whoever did the environmental analysis here says that apparently there was a disturbed agricultural plowing horizon in there and then after that the area regrew, that kind of -- went back to the Pine Barrens or whatever. That kind of fits in with a lot of things that Jim has been saying, that this is not necessarily a historical habitat, a lot of the area may have been cut up over years.

MR. JONES:
Well, it does grow back nicely, you see that with the wild fires, that's for sure.

MR. KAUFMAN:
Yeah, but you lost the pitch pine in the area apparently from the fires which is something a lot of people did not expect; they actually thought the fires would help.

MR. JONES:
I'm not going to go there with you.

MR. KAUFMAN:
That's a question for Nick later.

MR. JONES:

Let John Black do that. Okay, thanks. I would be happy to call up and have them fax over a legal opinion while we're still here; if you want, I can do that.

LEG. FIELDS:

That's a good idea, then we could vote on it.

CHAIRPERSON ELKOWITZ:

The fact that the commission has reviewed this and determined it to be nondevelopment pursuant to the act?

MS. MAHONEY:

Can you say that again?

CHAIRPERSON ELKOWITZ:

That the commission has reviewed it and determined that it's not development pursuant to the act.

MR. JONES:

You want me to try to do that?

CHAIRPERSON ELKOWITZ:

I believe you, if he said he would do it he'll do it.

MR. JONES:

You'll be here for a while, right?

CHAIRPERSON ELKOWITZ:

Well, we'll be here for a few minutes.

MR. JONES:

Oh, okay. I'll give it a try.

MR. SWANSON:

Can one person speak for the commission?

CHAIRPERSON ELKOWITZ:

It's not for me to tell you that. Larry asked a question, can the attorney speak for the commission; it's not for me to tell you that.

LEG. FIELDS:

Is that what --

CHAIRPERSON ELKOWITZ:

He's going to talk to John {Lamazzo}, the attorney for the commission, to give us his opinion.

MR. BAGG:

They actually give opinions over there, the Pine Barrens attorney, as opposed to --

CHAIRPERSON ELKOWITZ:

I'll answer you with a question.

MR. BAGG:
-- the County Attorney.

CHAIRPERSON ELKOWITZ:
Can the Legislative attorney give the opinion of the Legislature?

MR. KAUFMAN:
Yes.

MR. SWANSON:
I don't think so.

CHAIRPERSON ELKOWITZ:
I wasn't asking you to be cute, I was asking in theory.

MR. KAUFMAN:
No, realistically no, he cannot.

CHAIRPERSON ELKOWITZ:
Okay. So I don't care what we do. And quite honestly, I am going to abstain from the vote for a variety of reasons. But, you know, it's up to all of you, you have a quorum without me.

MR. KAUFMAN:
I think what Terry is saying is realistically correct, we have to be sure the grounds that we vote on and while we can get an opinion from the County -- from the commission's attorney, is that going to be binding as Terry is saying, probably not. Even if we got one from -- well, we'd also need to see what the County says on this.

CHAIRPERSON ELKOWITZ:
The County Attorney? It's real simple, the commission has jurisdiction; if they say they don't, they don't. It's like going to DEC -- I'll give you a real -- you go to DEC, you can have a private project, Tom and I do them all day long, right. You're 150 feet away from a designated wetland, but a town wants you to get a letter of non jurisdiction as part of your SEQRA review. Okay, so Tom and I may know they don't have jurisdiction, but what do you do?

MR. KAUFMAN:
You still get the letter of nonjurisdiction.

CHAIRPERSON ELKOWITZ:
You go to DEC and you get the letter.

MR. KAUFMAN:
Standard operating procedure.

LEG. FIELDS:
I just mentioned to Adrienne before that the whole purpose of the Pine Barrens Act was to protect that area for the drinking water and here we have an entity that wants to bring drinking water.

CHAIRPERSON ELKOWITZ:
But Tom is right, that's not the answer. And those of us who spent a lot of time in front of the commission know that it's to protect

habitat, it's to protect drinking water and it's to protect aesthetics. And those of us who have represented -- some of us have represented public utilities before the commission and have sometimes gotten determinations that something is nondevelopment and other times gotten determinations that we can develop it.

LEG. FIELDS:
It's not consistent.

CHAIRPERSON ELKOWITZ:
That's my point.

MS. ESPOSITO:
Well, I mean, is there a reason we have to do it today?

CHAIRPERSON ELKOWITZ:
I don't know.

MR. JONES:
Ten minutes they will have it over here.

LEG. FIELDS:
Is there a rush on this, Steve?

MS. ESPOSITO:
How close to closing that other well are you, the well that it's replacing?

MR. JONES:
Well, sure, we can keep putting it off and keep putting it off. We've been waiting a year-and-a-half, I suppose another month isn't going to kill us.

MR. CRAMER:
There is a Pine Barrens Commission meeting today.

CHAIRPERSON ELKOWITZ:
Oh, is there?

MR. JONES:
There is a commission meeting today, Ray Corwin is going to send a letter over in ten minutes to your attention saying that it's nondevelopment and it's being considered by the commission.

MR. CRAMER:
Has it been considered by the commission?

CHAIRPERSON ELKOWITZ:
This particular project was considered?

MR. JONES:
No, it's being.

MR. CRAMER:
The SEQRA law is clear, as she said, on --

CHAIRPERSON ELKOWITZ:
On development, it says -- what it says --

MR. CRAMER:
Development but also with involved agencies.

CHAIRPERSON ELKOWITZ:
Yes.

MR. CRAMER:
The agency that has the most jurisdiction over it should become the lead agency.

MR. JONES:
This is nondevelopment.

CHAIRPERSON ELKOWITZ:
No, but Tom --

MR. MALLAMO:
What's coming in ten minutes?

CHAIRPERSON ELKOWITZ:
Wait a minute. Tom is actually talking about a different provision. Tom is not talking about what I read, what I read from the Pine Barrens Plan before you came in, "The commission shall seek lead agency status or development proposed in the core preservation area pursuant to SEQRA." What Steve is saying, and I agree with that, if it's not development it's okay. But what you're saying is there is a provision in the SEQRA regulations that says, "The agency with the greatest discretion over the actions is the most appropriate lead agency."

MR. CRAMER:
Right.

CHAIRPERSON ELKOWITZ:
That's the difference.

MR. CRAMER:
If this is development which, you know, can one person speak for the commission? No .

MR. BAGG:
I think I should point out, though, with respect to the issue with Fireman's Park, if the commission chose not to follow their own guidelines in the plan and not to seek lead agency but to allow the project to go through the town and the commission separately --

CHAIRPERSON ELKOWITZ:
Right.

MR. BAGG:
And the courts sued --

MR. CRAMER:
And look what happened.

CHAIRPERSON ELKOWITZ:
They got sued and they lost.

MR. BAGG:
-- and they lost, but the commission is still taking the position that they do not need coordinated review, according to Ray Corwin.

MR. CRAMER:
But should we do something that, you know, I personally feel is inappropriate? Should we -- you know, what they're doing I don't think is correct. Should we do the same thing? I don't think so. Again, that's my own personal opinion.

MS. ESPOSITO:
We should wait one month because it sounds like we're not -- even if we did go to a vote, we're not going to have a quorum to do anything.

CHAIRPERSON ELKOWITZ:
Well, you have a quorum.

MS. ESPOSITO:
We have a quorum, we don't have enough votes.

MR. CRAMER:
It wouldn't necessarily pass.

MS. ESPOSITO:
Yeah. So I don't see what the urgency is.

MR. CRAMER:
I personally have no problem with it.

CHAIRPERSON ELKOWITZ:
I don't have a problem.

MR. CRAMER:
But it's more an administrative one.

CHAIRPERSON ELKOWITZ:
It's a procedural thing.

MR. CRAMER:
Right.

MR. BAGG:
Well, could you review it and make a recommendation? Not only make a recommendation to the Suffolk County Legislature but you could also forward that recommendation to the Pine Barrens Commission.

LEG. FIELDS:
Based on their answer, could we do that? In other words, could we say --

MR. BAGG:

Well, you're advisory, you can do whatever you want to do.

CHAIRPERSON ELKOWITZ:

But Jim, can we -- let's assume for a minute that the commission decides for whatever reason that they want jurisdiction over this and maybe the commission -- it's conjecture, okay, but it's not so far fetched. The commission decides that there is material removal, material alteration of vegetation here and they assert jurisdiction, does it help the commission that this Council made a Neg Dec and determined that it wasn't going to have an adverse impact? And do we want to actually get in the middle of it? That's my concern; do we want to be in the middle of it? And if there was -- I mean, I think Ginny was right asking Steve is there urgency to have a decision this morning.

MR. SWANSON:

I will make a motion to table this until we get a decision from the Pine Barrens Commission.

MR. BAGG:

Steve said you have ten minutes and something --

CHAIRPERSON ELKOWITZ:

Steve said he's having Ray Corwin.

MR. SWANSON:

It's not going to be a decision of the commission.

MS. ESPOSITO:

I will second Larry's motion.

CHAIRPERSON ELKOWITZ:

All those in favor? Opposed? Tabled (VOTE: 8-0-0-1 Not Present: John Finkenberg).

CHAIRPERSON ELKOWITZ:

Other business; is there any? Historic Services?

MR. MARTIN:

Good morning.

CHAIRPERSON ELKOWITZ:

Good morning.

MR. MARTIN:

Just some dates to announce. Sagtikos Manor, the Historic Society there is planning to open up the property on July 4th weekend and will be giving tours through the fall on the weekends through the house.

I just want to confirm, the Historic Trust meeting is to be on July 10th at 9:30 to take place at Normandy Manor at the Vanderbilt Museum and we'll be reviewing the use plan for Normandy Manor and also reviewing the dedication of Eagle's Nest, {William K.} Vanderbilt's Estate to the Suffolk County Historic Trust.

July 12th we have the 100th Anniversary of Theodore Roosevelt's ride from Sagamore Hill to {Medopro}.

MS. MANFREDONIA:
No kidding?

MR. MARTIN:
No kidding, which is to be celebrated of course at {Medicorp}, that's sponsored by the Bay Port Heritage Association. And it's also their 20th year anniversary of their organization which was established, one of the primary purposes was to restore {Medicorp}. And also that day have a ribbon cutting for the completion of the {Auto House} on that site that will be done the day before.

MS. MANFREDONIA:
Wonderful.

CHAIRPERSON ELKOWITZ:
Busy, very busy.

MR. KAUFMAN:
Where's the Auto House located?

MR. MARTIN:
It's right in front of the Carriage House, the past year or so it's been collapsed but it's up in there.

MR. MALLAMO:
It's not quite collapsed, but it's partially collapses.

CHAIRPERSON ELKOWITZ:
Leaning?

MR. MALLAMO:
A tree was holding it up the last time I saw it.

MR. MARTIN:
The tree, it's lost it's life, it did a good job holding the building up for many years, right.

CHAIRPERSON ELKOWITZ:
We can call it divine intervention.

MR. MARTIN:
That's all I have.

CHAIRPERSON ELKOWITZ:
Anybody have anything else? Yes, ma'am.

MS. SQUIRES:
I have just two quick things. DEC did do an update for ENC's and CAC's this month in Albany and essentially the gist of what they said is the money has been cut so much, personnel has been cut so much, that we used to say we will be able to maintain our level of service if people would just work harder; they are not even trying to say that anymore. They had 300 people take retirement and they talked about

how we simply can't maintain what we have been doing, it was kind of interesting. There was indeed an update of division heads, if any of you want to go to that, it's kind of interesting.

Also, the conference on the environment this year which is our joint sponsored conference, is October 3rd through 5th in Buffalo. And its theme is Sustainable Renewable Energy and there'll do a lot of talking about how you can get NYSERTA grants and tours of solar homes, etcetera. We haven't had a conference ever in Buffalo. In fact, I hadn't before there, I went for my Board of Directors meeting. It's interesting, they're trying very hard to rehabilitate. And of course when you listen to the financial story it's terrifying, but they have done water front work that's interesting, they have mass transportation, a rail system that comes into the center of town and goes through so you can get on the subway underground and above ground that drops you right into the center of downtown. That's all.

MS. ESPOSITO:

Who's the sponsor of this conference?

MS. SQUIRES:

CEQ is a member of NYSAEMC, the New York State Association of Environmental Management Councils, and NYSAC which is Conservation Commissions all over New York State. I'm President of that organization and this is the 2003 Conference on the Environment and we have had it for 26 years.

MR. CRAMER:

And we hosted one.

MS. SQUIRES:

And we hosted one on Long Island in '97. So that we -- CEQ and CAC's on Long Island sponsored that, we did a Long Island conference.

MR. KAUFMAN:

We even got picketed.

MS. SQUIRES:

We did get picketed.

CHAIRPERSON ELKOWITZ:

Just on the DEC losing people, for those of you who don't know, those of you that work in this, you know, Steve Lawrence is leaving the region.

MR. KAUFMAN:

Steve Lawrence is leaving?

CHAIRPERSON ELKOWITZ:

Steve Lawrence is leaving the region and, you know, to me, I think it's really a great loss. Steve is one of the good guys who really has always tried to work very hard.

MS. SQUIRES:

There was an interesting aside from someone, an Albany based person who's always been in Albany, lives there, they said sarcastically,

"They take all the Long Island people. They seem to have a preference in Albany for Long Island people."

LEG. FIELDS:

It's because they're better.

CHAIRPERSON ELKOWITZ:

You know what is, I think that they see everything here.

LEG. FIELDS:

Yeah.

CHAIRPERSON ELKOWITZ:

You know, they leave here because it's cheaper to live anywhere else in the state than here. But you know, we joke about the guys at DEC but they work really hard, when you think that there were two guys running all the fresh water wetlands and wild scenic and recreational rivers permits for all of Long Island, think about how much work that is.

MR. CRAMER:

And the Tiger Salamander Program.

CHAIRPERSON ELKOWITZ:

Yeah, the Endangered Species Program and that's really --

LEG. FIELDS:

And the open space.

CHAIRPERSON ELKOWITZ:

You know, we can stay and talk but let's leave the stenographer go. So let's entertain a motion to adjourn because she has another meeting.

MR. CRAMER:

Motion.

CHAIRPERSON ELKOWITZ:

I have a motion, I have a second.

MS. MAHONEY:

Thank you.

CHAIRPERSON ELKOWITZ:

You're welcome.

(*The meeting was adjourned at 10:15 A.M.*)

Theresa Elkowitz, Chairperson
Council on Environmental Quality

{ } - Denotes Spelled Phonetically